

Baker & Hostetler LLP

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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

BRUCE D. PERGAMENT, *et al.*,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05194 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY
DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L.
Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C.

§§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP on the one hand, and (i) Murray Pergament 1999 Trust FBO Bruce Pergament (“Pergament Trust”), and Bruce D. Pergament and Eric B. Woldenberg in their capacities as trustees of the Pergament Trust (collectively, the “Pergament Trust Defendants”), (ii) Linda Horowitz Spousal Trust FBO Richard Horowitz, f/k/a Murray Pergament 1999 Trust FBO Linda Horowitz (“Horowitz Trust”), and Bruce D. Pergament and Eric B. Woldenberg in their capacities as trustees of the Horowitz Trust (together, the “Horowitz Trust Defendants”), (iii) Pergament & Pergament Realty LLC, (iv) Bruce Pergament individually, and (v) Richard Horowitz individually (Pergament Trust Defendants, Horowitz Trust Defendants, Pergament & Pergament Realty LLC, Bruce Pergament and Richard Horowitz are together the “Defendants”), by and through their counsel Pryor Cashman LLP on the other hand (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 2, 2010, the Trustee filed and served a Complaint against Defendants.
2. On January 25, 2012, the Trustee filed an amended complaint against Defendants (the “Complaint”);
3. On September 18, 2015, Defendants served an answer on the Trustee.
4. As of December 23, 2019, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].
5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding, and dismissing the adversary proceeding, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default under the terms of the Settlement

Agreement.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

Dated: New York, New York
January 2, 2020

PRYOR CASHMAN LLP

/s/Richard Levy, Jr.
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Attorneys for Defendants

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*Attorneys for Irving H. Picard, Trustee for
the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC and the Estate of
Bernard L. Madoff*

SO ORDERED

Dated: January 2nd, 2020
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE